

# HOUSE BILL REPORT

## SB 5768

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**As Reported by House Committee On:**  
Local Government

**Title:** An act relating to county electronic public auctions.

**Brief Description:** Concerning county electronic public auctions.

**Sponsors:** Senators Cleveland, Benton, Honeyford and Fraser.

**Brief History:**

**Committee Activity:**

Local Government: 3/18/15, 3/19/15 [DP].

**Brief Summary of Bill**

- Authorizes counties to sell real and personal property at public auction via electronic media.
- Allows a county treasurer to require a deposit from auction participants, and contains provisions for notice, deposit forfeiture and refunds, and the acceptance of electronic funds and transfers for payment.

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### HOUSE COMMITTEE ON LOCAL GOVERNMENT

**Majority Report:** Do pass. Signed by 9 members: Representatives Takko, Chair; Gregerson, Vice Chair; Taylor, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Fitzgibbon, McBride, McCaslin, Peterson and Pike.

**Staff:** Michaela Murdock (786-7289).

**Background:**

Disposal of County Property.

When a county legislative authority wishes to dispose of county property, it must publish notice of its intention and hold a hearing on the proposal. At the hearing, the county legislative authority must admit evidence regarding the proposed action, and within three days, issue findings and a determination. The county legislative authority may set a minimum sale price on the property proposed for sale.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Notice and hearing requirements do not apply, if the county: (a) sells the property to a governmental agency; (b) trades in personal property upon the purchase of a like article; (c) sells property valued at less than \$2,500; or (d) adopts a resolution declaring an emergency.

All sales of county property ordered by the county legislative authority after a public hearing must be supervised by the county treasurer (treasurer). The property may be sold at a county or other government agency's public auction, a privately operated consignment auction open to the public, or by sealed bid to the highest and best bidder meeting or exceeding the minimum sale price. Notice of the sale must be published in a newspaper of general circulation in the county and posted in the courthouse at least 10 days prior to the sale.

Sales of personal property owned by the county must be for cash, except for property transfers to a governmental agency, or when the property is traded in on the purchase of a like article.

#### Distrainment of Personal Property.

If personal property taxes are not paid before they become delinquent, the treasurer must begin delinquent collection efforts by preparing papers in distraint. The papers must contain a description of the property, the amount of taxes, the amount of accrued interest, and the name of the owner. The treasurer must then seize sufficient goods and chattel belonging to the person to pay the taxes, interest, and costs described in the distraint papers.

The treasurer must advertise sale of the personal property by posting notice containing the time and place of the sale in three public places in the county, including the courthouse. If the taxes, interest, and costs are not paid before the date of the sale, the treasurer must sell the property at public auction. Any amount received in excess of the amount sufficient to pay the taxes, interest, and costs must be paid to the owner of the property.

If the county assessor or treasurer believes personal property is being removed from the state, or dissipated, sold, disposed of, or removed from the county, and that collection of taxes is being jeopardized, the treasurer must immediately prepare papers in distraint. The treasurer must then seize sufficient goods and chattel belonging to the person to pay the delinquent taxes, interest, and costs, and advertise and sell the property.

#### Foreclosure of Real Property.

Three years after the date that real property taxes are first delinquent, the treasurer must issue a certificate of delinquency on the property for all years' taxes, interest, and costs, unless the treasurer, with the consent of the county legislative authority, has elected to issue a certificate for fewer than all years' taxes, interest, and costs. The treasurer must file the certificate of delinquency with the clerk of the county and, with the legal assistance of the county prosecuting attorney, foreclose the real property tax lien.

The superior court, in determining an action to foreclose a tax lien, must issue an order: (a) directing the clerk to make an order for the sale of the affected real property; (b) vacating and setting aside the certificate of delinquency; or (c) providing any other relief or judgment as may be just. An order directing sale of the real property must be signed by the judge and

delivered to the treasurer. The order grants the treasurer full and sufficient authority to sell the property.

The treasurer must immediately sell the property to the highest and best bidder for cash. The acceptable minimum bid is the total amount of taxes, interest, and costs. All sales must be made at a location in the county on a date and time as the treasurer may direct, except Saturdays, Sundays, and legal holidays. The sale must continue from day to day during the same hours until all lots or tracts are sold. Notice of the time and place of the sale must be given for 10 days successively by posting notice in three public places in the county, including the office of the treasurer.

#### Sale of Tax Title Lands.

Tax title lands are lands acquired by a county for lack of other bidders at a tax foreclosure sale. Real property acquired by a county through foreclosure of delinquent taxes may be sold by order of the county legislative authority when, in its judgment, the sale is in the county's best interest. The treasurer may sell the property for not less than the price fixed by the county legislative authority.

Except as otherwise provided by law, real property sales must be conducted at public auction in the same manner as foreclosure sales. Notice of the sale must be published in a newspaper of general circulation in the county for three consecutive weeks. The person making the highest bid at the public auction is the purchaser of the property. The property may be sold for cash or by contract. If the highest bidder is a contract bidder, he or she must pay 30 percent of the total purchase price at the time of sale and enter into a contract to pay the balance due in 10 equal annual installments.

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#### **Summary of Bill:**

Counties are authorized to conduct public auction sales by electronic media for the sale of:

- county property, including tax title lands;
- foreclosed real property for purposes of collecting delinquent real property taxes, interest, and costs pursuant to an order and judgment of the superior court; and
- personal property seized by the treasurer for purposes of collecting delinquent personal property taxes, interest, and costs pursuant to papers of distraint.

The treasurer, in conducting the public auction sale by electronic media, may require participants to provide a deposit to participate, accept bids for as long as the treasurer deems necessary, and require electronic funds transfers to pay any deposits and the winning bid. For winning bids, the deposit is applied to the amount due. The deposit of a winning bidder will be forfeited and credited to the treasurer's operations and maintenance fund if the winning bidder does not comply with the terms of the sale. Other deposits paid by non-winning bids must be refunded within 10 business days after the sale closes.

Notice of a sale by electronic media must be published in a newspaper of general circulation, posted in a conspicuous place in the county courthouse, and posted on the county's website.

All property sold by electronic media is sold "as is." The treasurer is not liable for known or unknown conditions of the property, or for failure of an electronic device not owned, operated, or managed by the county that prevents a person from participating in the sale.

A statutory provision related to taxes owing prior to January 9, 1926, is stricken.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) As technology continues to advance, government should embrace technology systems that allow it to serve the public in the most efficient and effective manner possible. Current statute requires that county auctions be conducted at the courthouse. Prosecuting attorneys across the state disagree as to whether counties are allowed to conduct electronic public auctions under the statute, and have recommended a change in the statute for clarity. This bill gives counties clear authority to conduct online electronic auctions.

Electronic auctions are more efficient and save counties money. For example, Pierce County had an online auction last year that saved over \$7,500 in offsite costs and \$1,700 in overtime costs. Online sales not only benefit the county, but also benefit people whose property is sold. Any amounts that exceeds the amount of taxes, costs, and interest that the county is collecting goes to the homeowner. Getting higher prices for property through online auctions means that there is more money left over for the person whose property is sold.

Online auctions for parcels are shut down in 10-minute intervals. As a result, the sale closings are staggered. In addition, no one can bid in the last 5 seconds of an online auction and be the winning bidder. If anyone bids within the last 5 minutes of the auction for a particular parcel, additional time is automatically added to the clock, which creates a "going once, going twice" effect. Requiring deposits from online bidders will discourage non-serious investors. Most real property sold by counties is vacant land, not homes, and homes that are sold are generally uninhabitable.

(Opposed) None.

**Persons Testifying:** Shawn Myers, Washington State Association of County Treasurers; and Monty Cobb, Washington Association of County Officials.

**Persons Signed In To Testify But Not Testifying:** None.